



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director
No. 2001/059

September 7, 2001

TO COUNTY ASSESSORS:
COUNTY COUNSEL:
AND INTERESTED PARTIES

**NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION
PROPERTY TAX RULE 122.5 FIXTURES**

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606 (c) of the Government Code, proposes to amend Rule 122.5, Fixtures, in Title 18, Division 1 of the California Code of Regulations. A public hearing on the proposed amendment to the regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on October 24, 2001. Any person interested may present statements or arguments orally at that time and place. The Board will consider written statements or arguments if received by October 24, 2001.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proper assessment practice requires that permanently annexed wind machines used for frost protection of crops, trees and vines be classified as fixtures for property tax assessment purposes. Property Tax Rule 461, subsection (e) provides that fixtures and other machinery and equipment classified as improvements constitute an appraisal unit separate from the real property appraisal unit for purposes of determining declines in value. The absence of an express statutory or regulatory requirement to classify such wind machines as fixtures has resulted in inconsistent treatment among counties, with some counties classifying them as structures and other counties classifying them as fixtures. Therefore, Rule 122.5 is amended to add an example defining a permanently annexed wind machine as a fixture.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that proposed Rule 122.5 does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed rule will not result in direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5 (a)(8), the Board of Equalization makes an initial determination that the adoption of amendments to Rule 122.5 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to the rule will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the rule as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed amendment to the rule will not affect small business because the proposed rule amendment makes specific the required assessment practices of county assessors and does not impose any additional compliance or reporting requirements on taxpayers.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Rule 122.5 and the proposed amendment to the rule have no comparable Federal regulations.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Section 105, Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed rule amendment should be directed to Mr. Louis Ambrose, Senior Tax Counsel, at (916) 445-5580, fax number (916) 323-3387, email Lou.Ambrose@boe.ca.gov, or P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice to present testimony or bring witnesses to the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, at (916) 322-9569, fax number (916) 324-3984, email Diane.Olson@boe.ca.gov or Lydia Moreno, Business Taxes Appeals Analyst, at (916) 445-7086, email Lydia.Moreno@boe.ca.gov, or P.O. Box 942879, 450 N Street, Sacramento, CA 95814.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed rule. Those documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Diane Olson, Regulations Coordinator, (916) 322-9569, email Diane.Olson@boe.ca.gov, or P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. The express terms of the proposed regulation (rule) amendment is available on the Internet at the Board's website <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed rule amendment. It is also available for public inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with law, adopt the proposed rule amendment if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the rule amendment. The text of the modified rule amendment will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule amendment will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified rule amendment for fifteen days after the date on which the modified rule amendment is made available to the public.

Dated: September 7, 2001

STATE BOARD OF EQUALIZATION

Deborah Pellegrini, Chief
Board Proceedings Division